

UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

JOHN DOE,

No. C 09-01665 LB

Plaintiff,

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S
ADMINISTRATIVE MOTION TO
REOPEN CASE**

v.

LIFE INSURANCE COMPANY OF NORTH
AMERICA, ET AL.,

Defendants.

In this ERISA action, Plaintiff John Doe, a former employee of Excite, Inc., previously moved for summary judgment that he is covered under Excite's life insurance policy (administered by Life Insurance Company of North America ("LINA")) and that he does not have to pay insurance premiums because he is disabled under the plan. ECF No. 51. The court granted in part and denied in part his motion and remanded the matter to LINA to determine whether Plaintiff is "disabled" under the life insurance policy. ECF No. 64.

In its subsequent order remanding the matter and administratively closing the case, the court stated:

While Plaintiff pursues his claim with LINA, this case may be reopened by appropriate motion if necessary.

Any motion for attorney's fees and costs is due no later than 14 days after either party declares the conclusion of the meet and confer process following any final determination of Plaintiff's life waiver benefits.

ECF No. 75.

Recently, Plaintiff moved to reopen the case and for summary judgment. ECF No. 76, 77. Plaintiff subsequently withdrew his motion for summary judgment (ECF No. 83), but he still maintains that the case should be reopened so he can move for attorney's fees and costs.

Plaintiff's motion to reopen the case is DENIED WITHOUT PREJUDICE. As the court previously explained, the parties are expected to meet and confer about any outstanding issues (including attorney's fees and costs) before moving to reopen the case or for attorney's fees and costs. Should the meet and confer process fail to resolve the outstanding issues, either party may move to reopen the case at that time.

This disposes of ECF No. 76.

IT IS SO ORDERED.

Dated: September 28, 2011



LAUREL BEELER
United States Magistrate Judge